

Exhibit 1

**DECLARATION OF KYLE KISTNER
PURSUANT TO 28 U.S.C. § 1746**

I, Kyle Kistner, hereby make the following declaration based upon my personal knowledge:

1. I am over 21 years of age and am legally fit and qualified to testify in a court of law.

2. On September 22, 2022, the Commodity Futures Trading Commission (“CFTC”) entered an order (“Order”) against bZeroX, LLC (“bZeroX”), Tom Bean (“Bean”), and me instituting proceedings, making findings, and imposing remedial sanctions in connection with conduct that the CFTC found violated the Commodity Exchange Act and CFTC Regulations.

3. From approximately June 1, 2019 to approximately August 23, 2021 (which the Order defines as the “bZx Relevant Period”), bZeroX was a Delaware LLC that Bean and I founded, co-owned, and controlled. During the bZx Relevant Period, bZeroX created and operated the bZx Protocol (as defined in the Order) that facilitated the particular transactions that the CFTC found to be unlawful.

4. Specifically, during the bZx Relevant Period, I helped develop and promote a website to market, solicit members of the public to transact on, and facilitate access to and transactions on the bZx Protocol. In addition, I made public statements, appeared in interviews, wrote articles, led calls with community members that are publicly available on YouTube, and otherwise publicly marketed and solicited members of the public to utilize the bZx Protocol.

5. At least as early as February 2021, I had access to data (and caused bZeroX to produce such data to the CFTC) reflecting that, during a one-week period in February 2021, over 27% of bZx Protocol users were based in the United States and that over 38% of transactions on the bZx Protocol were engaged in by U.S.-based users.

6. On approximately July 30, 2021, I stated the following in a “bZx Community Call” that was publicly available on YouTube regarding bZeroX’s upcoming transition of control over the bZx Protocol to the to the bZx DAO:

It’s really exciting. We’re going to be really preparing for the new regulatory environment by ensuring that bZx is future-proof. So many people across the industry right now are getting legal notices and lawmakers are trying to decide whether they want DeFi companies to register as virtual asset service providers or not—and really what we’re going to do is take all the steps possible to make sure that when regulators ask us to comply, that we have nothing we can really do because we’ve given it all to the community.

7. On approximately August 23, 2021, Bean and I transferred control of the bZx Protocol from bZeroX to the bZx DAO. The Order defines the “DAO Relevant Period” as August 23, 2021 to the present and states that, “on December 18, 2021, [the bZx DAO] renamed itself and is now doing business as the Ooki DAO.”

8. On approximately August 24, 2021, I proposed in the bZx DAO’s online discussion forum (“bZx Forum”), and participated in subsequent bZx Forum discussions regarding, an omnibus funding plan for going-forward bZx DAO operations—including release of funds for marketing, operations, development, community management, and legal expenses. The bZx DAO ultimately voted to approve the proposal, resulting in release of funds from the bZx DAO Treasury (which contained bZx Protocol revenue) to pay the approved expenses.

9. On approximately August 27, 2021, I participated in a “bZx Community Call”, which was thereafter publicly available on YouTube. On that call:

- At approximately 4:20 (four minutes and twenty seconds into the recording), I stated: “What everybody needs to know about the DAO, and the most important part of that, is that everything is going to be happening via the forum. Whether that’s hiring somebody, if you have an idea you want implemented, you want to

1 set new priorities, you want transparency on something, this all happens via the
 2 forum, and then eventually goes to snapshot vote, and then if it's something that
 3 can be done off-chain, right, so like it's something you want the team to do,
 4 something that you want to happen on the front end, that just needs to pass a
 5 snapshot vote. If it's something that actually requires being . . . on-chain, then it'll
 6 need to go . . . through the Timelock and have some code prepared for it, but yeah,
 7 everything now is happening via the DAO. So, it's pretty exciting. We are all bZx
 8 at this point."

- 10 • At approximately 21:13, I stated that "I know Roman had been working on code . .
 11 . contracts compiled on Optimism. So that can definitely happen. I think that past
 12 Optimism, it will just be like what the community wants to see next. Things do
 13 change quickly in the space. And so we will have to adapt maybe it turns out our
 14 [inaudible] never gets traction or anything like that. But yeah, we can definitely
 15 discuss in the forum, . . . like rebrand and optimism are you know sort of a fait
 16 accompli right now. I don't know if the permissionless listings timeline is that
 17 pessimistic as being next year, hopefully its quite a bit sooner than that . . . I think
 18 that's a good outline of what could be expected for sure."

20 10. During the DAO Relevant Period, I was a United States citizen and engaged in the
 21 activities described above in Paragraphs 6-9 in the United States.

23 11. While I was engaging in the activities described above, I was aware that the bZx
 24 Protocol was being offered to every person in the world (and thus in the United States) through
 25 the bZx DAO's website.

1 I declare under the penalty of perjury that the foregoing is true and correct.

2 Executed on this 1st day of June 2023 in San Diego.

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6 Kyle Kistner
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